

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.50 of 2021

In
Letters Patent Appeal No.314 of 2019

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Jawahar Lal Ram, Son of Late Chhabinath Prasad, Resident of Village-Farhangpur, Police Station-Chandi, District-Bhojpur.

... .. Appellant-Petitioner

Versus

1. The State of Bihar through the Director, Secondary Education Department, Govt. of Bihar, Patna.
2. The Director, Secondary Education Department, Govt. of Bihar, Patna.
3. The District Magistrate-cum-Chairman, Compassionate Appointment Committee, Bhojpur.
4. The District Education Officer, Bhojpur, Ara.

... .. Respondents-Opposite Parties

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Appearance :

For the Petitioner/s	:	Mr. Bipin Bihari Singh, Advocate
For the State	:	Mr. Sushil Kumar Singh, AC to AAG-13
For the Opposite Party/s:		Mr. Lalit Kishore, Senior Advocate

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CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI
and
HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI)

7 17-01-2025 Heard Mr. Bipin Bihari Singh, learned Advocate for the petitioner, Mr. Sushil Kumar Singh, learned AC to AAG-13 for the Respondent-State and Mr. Lalit Kishore, learned Senior Advocate for the Respondent.

2. The present application has been filed by the applicant with a prayer that order dated 19.12.2019 passed by Division Bench of this Court in Letters Patent Appeal No. 314 of 2019 (in Civil Writ Jurisdiction Case No. 6414 of 2018) be reviewed.



3. Learned Advocate has referred to the averments made in the memo of Review Application and thereafter submitted that after the death of father of the applicant, the application was submitted to the concerned Department for appointment of the applicant on compassionate ground. However, the said application came to be rejected *vide* order dated 11.03.2017 by District Collector, Bhojpur, Ara whereby claim of the applicant came to be rejected mainly on the ground that the applicant is the son from second wife of deceased employee. It is further submitted that applicant challenged the said order by filing Civil Writ Jurisdiction Case No. 6414 of 2018. Learned Single Judge *vide* order dated 06.12.2018 dismissed the said petition. The applicant/petitioner, therefore, filed Letters Patent Appeal No. 314 of 2019 before Division Bench of this Court. It is mainly contended that though the Division Bench in the order dated 19.12.2019 made observation in favour of the applicant/petitioner by observing that son born from second wife is also entitled to make claim for compassionate appointment and the District Magistrate committed error in rejecting the claim of the appellant. The Division Bench thereafter did not grant any relief to the applicant herein mainly by observing that compassionate



appointment cannot be granted after a long period of time. Thereafter, the Division Bench has rejected the claim of the applicant on the ground of delay. Thus, the Division Bench has committed an error. Learned Advocate, therefore, urged that the present application be allowed and the order dated 19.12.2019 passed by Division Bench be reviewed and thereafter the said appeal be heard on its own merit.

4. On the other hand, learned Advocate appearing for the Respondents mainly contended that there is no error apparent on the face of the record in the order dated 19.12.2019 passed by Division Bench and, therefore, the present Review Application may not be entertained.

5. Having heard learned Advocates appearing for the parties and having gone through the materials placed on record, it would emerge that the Collector rejected the claim of the applicant solely on the ground that applicant is the son from second wife of the deceased employee and, therefore, he is not entitled for compassionate appointment. It is further revealed from the record that the learned Single Judge also dismissed the petition filed by the applicant wherein the order of Collector was under challenge. The applicant, therefore, filed Letters Patent Appeal No. 314 of 2019. From the order dated 19.12.2019



passed by Division Bench it would reveal that the Division Bench has given finding in favour of the present applicant by observing that the son born from second wife is also entitled to make claim of compassionate appointment and, therefore, the District Magistrate committed an error in rejecting the claim of the appellant/present applicant. However, thereafter the Division Bench has dismissed the appeal mainly on the ground that the age of the applicant on the date of passing of the aforesaid order was 51 years. The father of the applicant died in the year 2002 and for last 17 years, the family is surviving. The Division Bench also observed that compassionate appointment is not a form of reservation to be claimed as a matter of right and thereafter the Division Bench referred to the various decisions rendered by the Hon'ble Supreme Court and dismissed the appeal by observing that after seventeen years, there is no need to remit the matter to the District Magistrate, Bhojpur, Ara for reconsideration.

6. We are of the view that if the applicant is aggrieved by the aforesaid decision rendered by the Division Bench of this Court, it is always open for him to challenge the said order by filing appropriate proceeding before appropriate forum. However, as the appellant/original petitioner has failed to point



out any error apparent on the face of the record of the order dated 19.12.2019 passed by Division Bench in the aforesaid appeal, we are not inclined to entertain the present Review Application.

7. Accordingly, Civil Review Application No. 50 of 2021 stands dismissed.

(Vipul M. Pancholi, J)

(Prabhat Kumar Singh, J)

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